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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

September 16, 1998

Ms. Magalie R. Salas, Secretary
Federal Communications Commission
1919 M Street, N.W., Room 222
Washington, D.C. 20554

Re: Ex Parte Notice
CC Docket No. 96-115

Dear Ms. Salas:

On Wednesday, September 15, 1998, the undersigned of the National Telephone Cooperative Association, Larry Sargeant, United States Telephone Association, Todd Lentor and Mary Madigan, Personal Communications Industry Association, and Andrea Williams, Cellular Telecommunications Industry Association participated in a discussion with Kyle Dixon and Peter Tenhula of Commissioner Powell's office.

The associations discussed issues related to stay of the Commission's "flagging" and "tracking and auditing" rules. They presented the attached documents. The documents show that the costs of complying with flagging and audit and tracking requirements are substantial, especially for small carriers.

These costs are especially burdensome in light of the effort required to address potential Y2k problems in computer systems. The associations pointed out that the Securities and Exchange Commission (SEC) stayed all rules that require major reprogramming of computer systems by SEC regulated companies on September 3. The SEC moratorium is intended to facilitate the allocation of resources to addressing potential problems caused by the year 2000 computer technology conversion. The Associations urged prompt issuance of a stay of the flagging and auditing and tracking rules to prevent the unnecessary expenditure of scarce carriers' obligations as the January 26, 1999, enforcement date approaches.

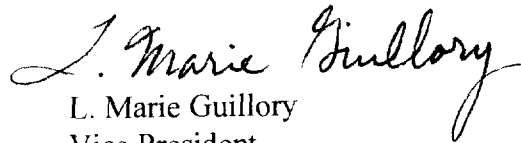
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The Associations also pointed out that the record does not support a need for these rules. The Commission has other means of enforcing the requirements of Section 222. Moreover, many parties suggested alternatives in their comments and petitions for reconsideration of the rules.

In accordance with the ex parte rules, an original and one copy of this letter and attachment are being submitted to the Secretary. If there are any questions in this matter, please contact me at NTCA.

Sincerely,

A handwritten signature in cursive script that reads "L. Marie Guillory". The signature is fluid and elegant, with the first letters of each word being capitalized and prominent.

L. Marie Guillory
Vice President

Legal and Industry

Attachments

cc: Kyle Dixon
Peter Tenhula

Justifying the Need for a Stay of the CPNI Electronic Safeguard Requirements
Ex Parte Presentation - CC Docket No. 96-115

- **The Requirements:**

(1) Flagging - Telecommunications carriers are required to develop and implement software that indicates within the first few lines of the first screen of a customer's service record the CPNI approval status and references the customer's existing service subscription.

(2) Electronic audit - Telecommunications carriers must maintain an electronic audit mechanism that tracks access to customer accounts, including when a customer's record is opened, by whom, and for what purpose. Carriers must maintain these contact histories for a minimum period of one year.

Both of these requirements become enforceable on January 26, 1999

- **Why the "flagging" and "electronic audit" requirements are unnecessary and unreasonable:**

- Other parts of the CPNI rules already provide sufficient protection for consumers. For example, under the CPNI rules:
 - Telecommunications carriers must train their personnel as to when they are authorized to use CPNI and implement an express disciplinary process.
 - Sales personnel must obtain supervisory approval of any proposed outbound marketing request and maintain records of carrier compliance for a minimum period of one year.
 - Telecommunications carriers must also have a corporate officer, as an agent of the carrier, sign a compliance certificate on an annual basis and file it with the FCC.
- The CPNI requirements will further drain carriers' information technology resources -- which are largely focused on Y2K compliance issues.

Note: The Securities and Exchange Commission (SEC) recently announced a moratorium on the implementation of new SEC rules that require a major re-programming of computer systems by SEC-regulated entities between June 1, 1999 and March 31, 2000. The moratorium is intended to facilitate and encourage securities industry participants to allocate significant time and resources to addressing the potential problems caused by the Year 2000 computer

technology conversion. The Federal Communications Commission should do the same.

- The above requirements fail any cost/benefit analysis. Implementation cost estimates range from \$60,000 for small carriers to \$1 billion for large carriers (MCI).

The Bottom Line

- If the FCC does not issue a stay of the above requirements promptly, carriers will be forced to spend millions of dollars on requirements that may ultimately be modified or even eliminated by the FCC.
- The FCC needs to promptly make a decision on our request for a stay in order to give carriers sufficient time to make the necessary upgrades, train personnel, and meet the compliance date of January 26, 1999.

The Requirements Will Harm Small ILECS

- NTCA conducted survey in April 1998 (Charts attached)
- 60% of 500 members responded

Flagging

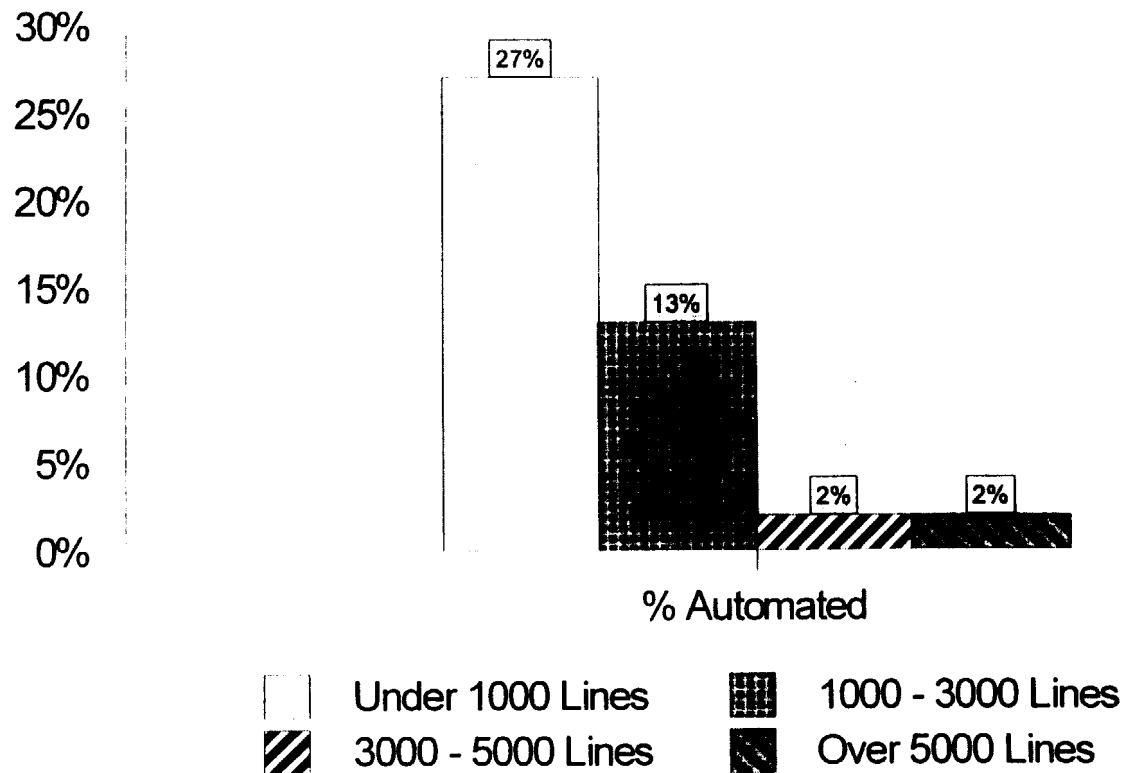
- More than 25% maintain customer records manually
- Less than 10% have ability to add a field to indicate CPNI approval status
- 90% will need significant upgrades to systems or software
- Cost of upgrades are estimated to be \$40-60k per company

Auditing and tracking

- Only 6% have electronic audit capability
- No one has capability to track access to customer accounts, including when a customer record is opened, by whom and for what purpose
- Cost to implement tracking is estimated between \$60-70K per company
- Total auditing and tracking costs estimated at \$300 per line for a 300-line company

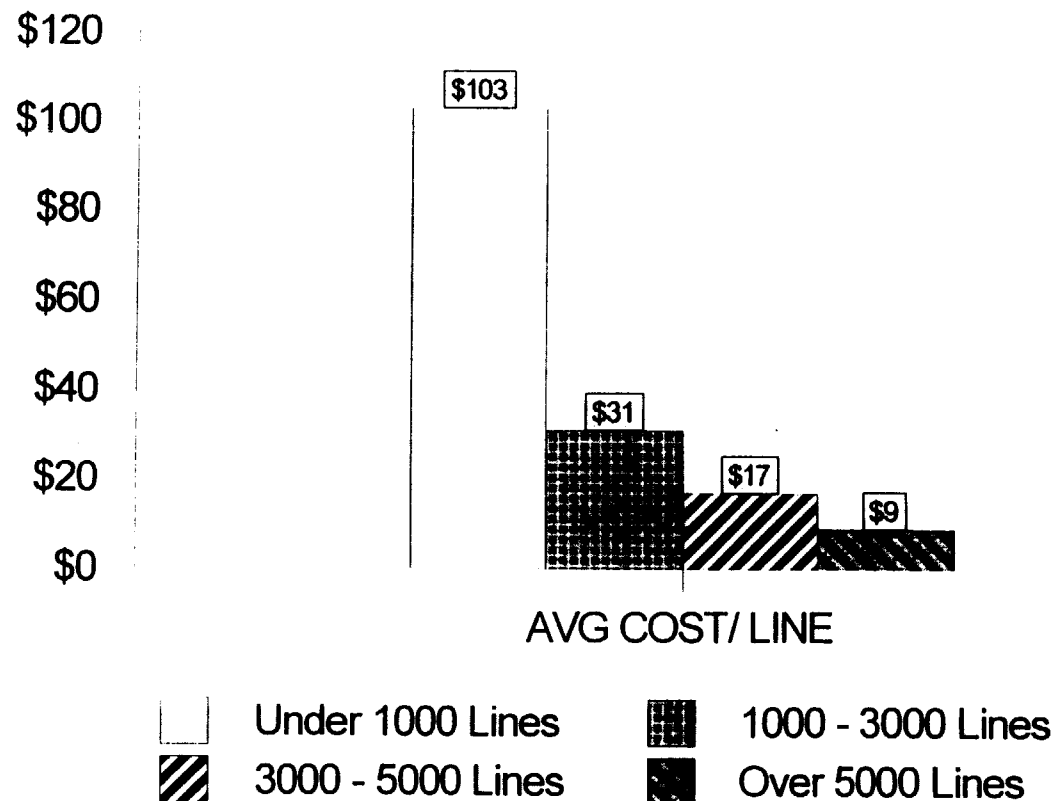
Rules are overkill

- Telcos have no incentive to violate consumer privacy
- Less burdensome measures can be used and developed by telcos themselves



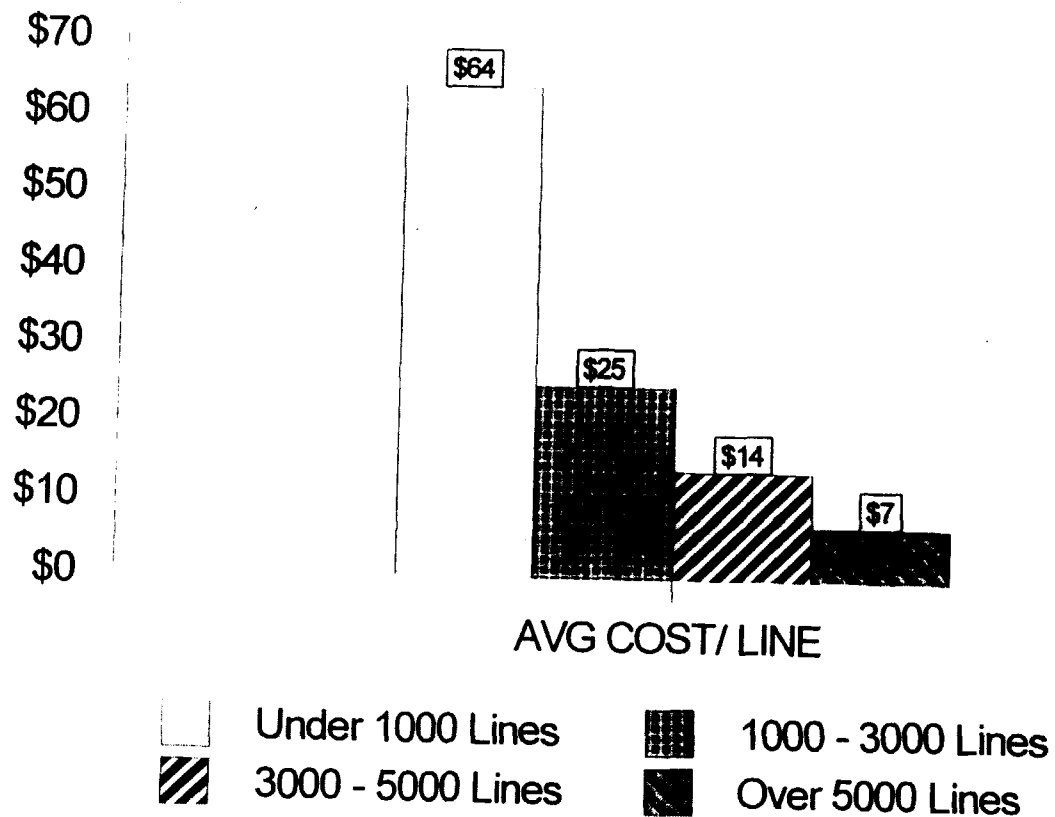
PERCENT OF COMPANIES WITHOUT MECHANIZED CUSTOMER SERVICE RECORDS

Source: NTCA Member Survey, April 1998



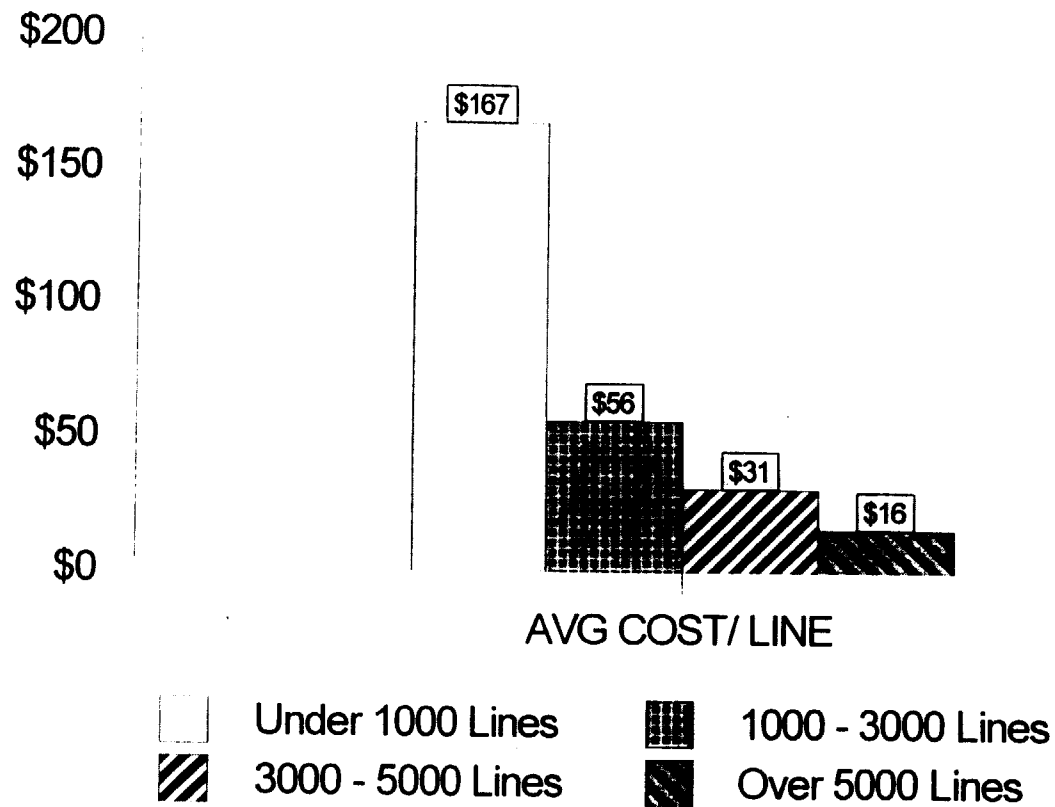
**ESTIMATED AVERAGE COST / LINE TO
IMPLEMENT ELECTRONIC AUDIT CAPABILITY**
(assumes already automated)

Source: NTCA Member Survey, April 1998



ESTIMATED AVERAGE COST / LINE TO ADD CPNI APPROVAL STATUS FIELD

Source: NTCA Member Survey, April 1998



TOTAL ESTIMATED AVERAGE COST / LINE TO COMPLY WITH CPNI ORDER

Source: NTCA Member Survey, April 1998

Exchange, Inc. ("NYSE"), the PCX, and the Philadelphia Stock Exchange, Inc. ("PHLX").

I. Description of the Amendment

The purpose of the amendments is to (1) eliminate the requirement that the CSE must submit proposed changes to its Rule 11.9 or the description of NSTS processing to other ITS Participants for review and comment prior to filing such changes with the Commission; (2) recognize the change in corporate name from the Pacific Stock Exchange, Inc. ("PSE") to the Pacific Exchange, Inc. ("PCX"); (3) change the corporate address of the CSE; and (4) make a technical correction to Section 8(e)(iv)(D).

The amendment concerning prior review of CSE rule changes responds to the Commission's request in its letter to all Participants, dated May 27, 1997.²

To amend the second paragraph of Section 8(e)(iii) to read, in full, as follows: 8. Participants' Implementation Obligations. (e) CSE Implementation Obligations (iii) NSTS Rule Changes.

The CSE shall not alter (A) the obligations of a Designated Dealer set out in CSE Rule 11.9 so as to remove the obligation of Designated Dealers to make continuous, two-sided markets in stocks assigned to them as Designated Dealers or (B) the definition of "Contributing Dealer" in CSE Rule 11.9 so as to remove the obligations of Contributing Dealers to provide to all NSTS Users through NSTS, during CSE trading hours, regular bids and offers in stocks in which they are registered as Contributing Dealers.

To change all references to "Pacific Stock Exchange" and "PSE" to "Pacific Exchange" and "PCX", respectively.

The sections to be amended are: Preamble, first paragraph; Section 1(33), (34A), (34B), Section 3, Section 6(a)(ii), Section 7(a) and Section 11(a)(iii)(E-1).

To amend Section 3, in part, as follows: Cincinnati Stock Exchange, Inc. ("CSE"), registered as a national securities exchange under the Act and having its principal place of business at One Financial Place, 440 South LaSalle Street, Suite 2600, Chicago, Illinois 60605.

To cause the second sentence of subsection (e)(iv)(D) of Section 8 to read, in full, as follows: The other Participants undertake to consider in good faith any such proposed interpretation with a view towards making a determination as anticipated by section 1(1B) that "Approved Dealer"

no longer excludes "Contributing Dealers."

II. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed amendments are consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW, Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed plan amendment that are filed with the Commission, and all written communications relating to the proposed plan amendment between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Room. Copies of the filing will also be available for inspection and copying at the principal office of the ITS. All submissions should refer to File No. 4-208 and should be submitted by September 24, 1998.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.³

Jonathan G. Katz,

Secretary.

[FR Doc. 98-23763 Filed 9-2-98; 8:45 am]

BILLING CODE 8010-01-M

SECURITIES AND EXCHANGE COMMISSION

[Release Nos. 33-7568; 34-40377; 35-26912; 1A-1749; and IC-23416]

Commission Statement of Policy on Regulatory Moratorium to Facilitate the Year 2000 Conversion

AGENCY: Securities and Exchange Commission.

ACTION: Policy Statement.

SUMMARY: The Securities and Exchange Commission ("SEC" or "Commission") is announcing a moratorium on the implementation of new Commission rules that require major reprogramming of computer systems by SEC-regulated entities between June 1, 1999 and March 31, 2000. The moratorium is intended to facilitate and encourage securities industry participants to allocate significant time and resources to addressing the potential problems

caused by the Year 2000 computer technology conversion.

FOR FURTHER INFORMATION CONTACT:

Primary Contacts—Sheila Slevin at (202 942-0796), or Sarrita Cypress at (202 942-0735), Division of Market Regulation. Secondary Contacts for Specific Program Areas—Mauri Osheroff at (202 942-2840), Division of Corporation Finance, or Robert E. Plaze at (202 942-0716), Division of Investment Management.

SUPPLEMENTARY INFORMATION:

I. Background

The "Year 2000 problem" is generally understood to be a problem caused by computerized systems that are programmed to use a two-digit rather than four-digit number to represent the year. The "19" that precedes dates in this century was assumed. Consequently, systems programmed in this fashion may mistake the Year 2000 for 1900, or some other incorrect date. To mitigate potential problems caused by the Year 2000 computer conversion, the SEC has worked closely with the securities industry to encourage participants to remediate systems that are not Year 2000 compliant and test systems that are critical to the operation of the nation's capital markets as the millennium approaches.

II. Year 2000 Regulatory Moratorium

Because the Commission views the Year 2000 problem as an extremely serious issue, it has determined to declare a moratorium on the implementation of new Commission rules requiring major reprogramming. Under this moratorium, no new Commission rules requiring major reprogramming will be made effective between June 1, 1999 and March 31, 2000.

Although the Commission will continue to consider necessary revisions to its rules, it will refrain from putting into effect changes to its rules having a major impact on computer systems during this critical transition period. Of course, the Commission reserves the right to implement new rules, where such rulemaking is necessary to protect the public interest in response to emergency conditions or special circumstances that may arise during the moratorium.¹

The regulatory moratorium is limited to Commission rulemaking and shall not apply to rule changes by self-regulatory organizations, such as the National Association of Securities Dealers, Inc.

² See letter from Jonathan G. Katz, Secretary, Commission, to ITS Participants, dated May 27, 1997.

³ 17 CFR 200.30-3(a)(29).

¹ This moratorium will not apply to rules designed to implement changes to the EDGAR system.